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Counsel for Defendants Premier Orthopaedic and Sports Medicine Associates of Southern New Jersey, LLC, trading as Premier Orthopaedic Associates, Premier Orthopaedic Associates Surgical Center, LLC, Kimberly Yvette Smith, M.D., a/k/a Kimberly Yvette Smith-Martin, M.D., Thomas Dwyer, M.D., Rhaul Shah, M.D., John Catalano, M.D., Richard C. DiVerniero, M.D., and Richard Strauss, M.D.

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS LIABILITY
LITIGATION

THIS DOCUMENT RELATES TO:

ALL CASES

MDL No. 2419
Docket No. 1:13-md-2419 (RWZ)

NOTICE OF WITHDRAWAL OF SUBPOENA

Defendants Premier Orthopedic and Sports Medicine Associates of Southern New Jersey, LLC, trading as Premier Orthopedic Associates, Premier Orthopedic Associates Surgical Center, LLC, Kimberly Yvette Smith-Martin, M.D., Thomas Dwyer, M.D., Rahul Shah, M.D., Richard C. DiVerniero, M.D. (Hereinafter “The Premier Defendants” or “Premier”), come now and give notice of the following:

1. On October 15, 2015 the Premier Defendants noticed the deposition by written question of Summit Surgery Center. (See Docket Number (“Dkt. No.”) 2333.) On November 9, 2015 the Premier Defendants received the Affidavit of Service of Trey

Johnson together with Proof of Service for Subpoena served on Summit Surgery Center.

2. On October 29, 2015 the Plaintiff's Steering Committee ("PSC") filed a Motion for Protective Order (Dkt. No. 2372) and Memorandum of Law in Support (Dkt. No. 2374) of their position that said depositions by written question should occur in oral deposition format. The Premier Defendants opposed this motion on November 6, 2015. (Dkt. No. 2385.) During this time all deposition by written question proceedings were stayed, and the Premier Defendants notified all third-party deponents including Summit Surgery Center of such by letter.
3. On December 17, 2015 Judge Baol held that the depositions by written question would go forward. (Dkt. No. 2519, 2528).
4. In early January, 2016 the Premier Defendants made efforts to reach out to all noticed entities including Summit Surgery Center, informing them of the Court's ruling and requesting said entities choose dates in February, 2016 for their depositions. In February, 2016 the Premier Defendants made further efforts to reach out when multiple entities, including Summit Surgery Center, did not respond to prior letters or contact the Premier Defendants to schedule their depositions.
5. On February 29, 2016, Summit Surgery Center filed a Motion to Quash. (See Dkt. No. 2699.)
6. On March 9, 2016, the Premier Defendants filed a Notice requesting an additional ten days to respond to Summit Surgery Center's Motion to Quash. (See Dkt. 2734.)

7. At the March 10, 2016 status conference, Judge Baol granted the Premier Defendants' request for a ten-day extension to respond to Summit Surgery Center's Motion to Quash.
8. The Premier Defendants hereby give notice that the subpoena to Summit Surgery Center is withdrawn.

Respectfully submitted,

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CERTIFICATION

I certify that in submitting this *NOTICE*, I caused a copy of the above to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's System, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: March 15, 2016

/s/ Christopher M. Wolk
Christopher M. Wolk, Esq.